

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:
BLAZAR, *et al.*

Application No.: 10/827,023

Group Art Unit: 1636

Filed: 04/19/2004

Examiner: TBA

Title: Regulatory T Cells and their Use in Immunotherapy and Suppression of Autoimmune Responses

MAIL STOP PETITION
Office of Petitions
P. O. Box 1450
Alexandria, VA 22313-1450

<p><u>CERTIFICATE OF MAILING VIA U.S. EXPRESS MAIL</u> Express Mail Label No. EV320479266US Date of Deposit: <u>March 17, 2005</u> Signature: <u>Debra A. Coccia</u> Debra A. Coccia</p>
--

**PETITION FOR ACCEPTANCE OF AN UNINTENTIONALLY DELAYED CLAIM
FOR PRIORITY UNDER 37 CFR 1.78(a)(5)**

Sir:

On April 19, 2004 Applicants filed a U.S. utility patent application, claiming priority to U.S. provisional application 60/374,356, filed April 19, 2002 and U.S. provisional application 60/550,481, filed on March 5, 2004, each of which were incorporated in their entirety in the U.S. utility patent application.

Three U.S. provisional applications were filed in this matter:

1. 60/374,356 filed April 19, 2002;
2. 60/463,591 filed April 17, 2003; and

03/21/2005 HANDED 00000053 10827023
01 FC:1454 1370.00 OP

3. 60/550,481 filed March 5, 2004.

Applicants unintentionally, due to a typographical error, claimed priority to 60/374,356, filed April 19, 2002 instead of correctly claiming priority to U.S. provisional application 60/463,591, filed on April 17, 2003.

Applications 60/374,356 and 60/463,591 were effectively the same filing. Each included the same cited manuscripts, specifically:

1. Woo, *et al.*, "Regulatory T. Cells from Lung Cancer Patients Directly Inhibit Autologous T Cell Proliferation;

2. Taylor, *et al.*, "The Infusion of Ex Vivo Activated and Expanded CD4⁺ CD25⁺ Immune Regulatory Cells Inhibit Graft-vs-Host Disease (GVHD) Lethality; and

3. The Power Point presentation relative to the AAI 2002 discussion.

The applications differ in page number only because a summary was added in the filing of 60/463,591 when the manuscripts from 60/374,356 were refiled. These cited manuscripts were also relied upon in filing the U.S. utility patent application, hence priority to the earlier filed provisional applications is justified. Because provisional applications 60/374,356 and 60/463,591 were the same, the wrong date and serial number were mistakenly entered into the utility application and the Application Data Sheet. The error, however, was merely typographical.

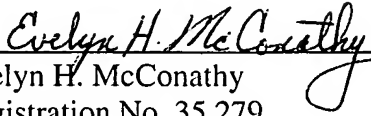
Applicants respectfully petition for grant of the following request:

That the claim to priority of U.S. provisional application 60/463,591 filed on April 17, 2003 be applied to U.S. utility application 10/827,023, filed on April 19, 2004, which was filed within one (1) year of the provisional filing date of 60/463,591. Therefore, the effective filing date of U.S. utility application 10/827, 023 will correctly benefit from the April 17, 2003 filing date of provisional 60/463,591, as well as from the presently identified U.S. 60/550,481, filed March 5, 2004.

The required filing fee is included with this response. In the event any additional fees are required in connection with this paper, the Commissioner is authorized to charge Deposit Account No.: 50-0573.

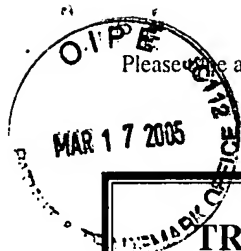
Applicants' undersigned attorney may be reached by telephone at (215) 575-7034. All correspondence should be directed to the below-listed address.

Respectfully submitted,



Evelyn H. McConathy
Registration No. 35,279

Date: **March 17, 2005**
DILWORTH PAXSON LLP
3200 Mellon Bank Center
1735 Market Street
Philadelphia, PA 19130-7595
Tel. (215) 575-7000
Fax (215) 575-7200



Please use a plus sign (+) inside this box → ☐

U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

PTO/SB/21

OMB 0651-0031

PAC #

TRANSMITTAL FORM <i>(to be used for all correspondence after initial filing)</i>		Application Number	10/827,023
		Filing Date	04/19/2004
		First Named Inventor	BLAZAR, et al.
		Group Art Unit	1636
		Examiner Name	TBA
Total Number of Pages in This Submission		Attorney Docket Number	22253-776278 [204683]

ENCLOSURES (check all that apply)		
<input checked="" type="checkbox"/> Fee Transmittal Form <input checked="" type="checkbox"/> Fee Attached <input checked="" type="checkbox"/> Amendment/Reply/ Election of Claims <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Response to Missing Parts/ Incomplete Application <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) – Figs. <input type="checkbox"/> Licensing-related Papers <input checked="" type="checkbox"/> Petition for Acceptance of an Unintentionally Delayed Claim for Priority Under 37 CFR 1.78(a)(5) <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) <input type="checkbox"/> Landscape Table on CD	<input type="checkbox"/> After Allowance Communication to TC <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to TC <i>(Appeal Notice, Brief, Reply Brief)</i> <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input type="checkbox"/> Other Enclosure(s) <i>(please identify below):</i> Check in the amount of \$1370.00; Return Postcard.
Remarks:		
SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT		
Firm Name	Drinker Biddle & Reath LLP	
Signature	Evelyn H. McConathy	
Printed Name	Evelyn H. McConathy, Reg. No. 35,279	
Date	March 17, 2005	
CERTIFICATE OF EXPRESS MAIL		
I hereby certify that this paper, along with any documents referred to as being enclosed therewith, is being deposited with the United States Postal Service via express mail label EV320479266US addressed to Mail Stop Petition, U.S. Patent Office, Assistant Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this date: March 17, 2005.		
Typed or printed name	Debra A. Goccia	
Signature	Debra A. Goccia	Date: March 17, 2005

PHIP410031\1

EV320479266US



FREE TRANSMITTAL
for FY 2005

Patent fees are subject to annual revision.

☒ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT | **(\$1370.00)**

METHOD OF PAYMENT (check all that apply)

- ☒ Check ☐ Credit Card ☐ Money Order ☐ Other ☐ None
- ☐ Deposit Account:
Deposit Account Number 50-0573
Deposit Account Name Drinker Biddle & Reath LLP
- The Director is authorized to: (check all that apply)
- ☐ Charge fee(s) indicated below ☒ Credit any overpayments
- ☒ Charge any additional fee required under 37 CFR 1.16 and 1.17
- ☐ Charge fee(s) indicated below, except for the filing fee to the above-identified deposit account.

FEE CALCULATION

EXTRA CLAIMS FEES FOR UTILITY AND REISSUE

Total Claims * -20** = 0 X * = \$ 0

Independent Claims * - 3** = 0 X * = \$ 0

Multiple Independent + 360/180 = \$0

Large Fee Code	Entity Fee (\$)	Small Fee Code	Entity Fee Code	Fee Description
1202	50	2202	25	Claims in excess of 20
1201	200	2201	100	Independent claims in excess of 3
1203	360	2203	180	Multiple dependent claim, if not paid
1204	200	2204	100	**Reissue independent claims over original patent
1205	50	2205	25	**Reissue claims in excess of 20 and over original patent

**or number previously paid, if greater; For Reissue, see above

SUBMITTED BY CUSTOMER NO. 23973

Name (Print/Type) Evelyn H. McConathy

Signature Evelyn H. McConathy

Complete if known

Application Number **10/827,023**

Filing Date **04/19/2004**

First Named Inventor **BLAZAR, et al.**

Examiner Name **TBA**

Art Unit **1636**

Attorney Docket No. **22253-76278 [204683]**

FEE CALCULATION (continued)

ADDITIONAL FEES

Fee Code	Large Entity Fee (\$)	Fee Code	Small Entity Fee (\$)	Fee Description	Fee Paid
1051	130	2051	65	Surcharge – late filing fee or oath	
1052	50	2052	25	Surcharge – late provisional filing fee or cover sheet	
1053	130	1053	130	Non-English specification	
1812	2,520	1812	2,520	For filing a request for <i>ex parte</i> reexamination	
1804	920*	1804	920*	Requesting publication of SIR prior to Examiner action	
1805	1,840*	1805	1,840*	Requesting publication of SIR after Examiner action	
1251	120	2251	60	Extension for reply within first month	
1252	450	2252	225	Extension for reply within second month	
1253	1,020	2253	510	Extension for reply within third month	
1254	1,590	2254	795	Extension for reply within fourth month	
1255	2,160	2255	1,080	Extension for reply within fifth month	
1401	500	2401	250	Notice of Appeal	
1402	500	2402	250	Filing a brief in support of an appeal	
1403	1,000	2403	500	Request for oral hearing	
1451	1,510	1451	1,510	Petition to institute a public use proceeding	
1452	500	2452	250	Petition to revive – unavoidable	
1453	1,500	2453	750	Petition to revive – unintentional	
1501	1,400	2501	700	Utility issue fee (or reissue)	
1503	1,100	2503	550	Plant issue fee	
1462	400	1462	400	Petition to the Commissioner – Group I	
1463	200	1463	200	Petition to the Commissioner – Group II	
1464	130	1464	130	Petition to the Commissioner – Group III	
1807	50	1807	50	Processing fee under 37 CFR 1.17(q)	
1806	180	1806	180	Submission of Information Disclosure Stmt	
1810	790	2810	395	For each additional invention to be examined (37 CFR § 1.129(b))	
1801	790	2801	395	Request for Continued Examination (RCE)	
1802	900	1802	900	Request for expedited examination of a design application	
Other fee (specify) <u>Petition for Acceptance of an Unintentionally Delayed Claim in Priority under 37 CFR 1.78(u)(5)</u>					\$1370

SUBMITTED BY CUSTOMER NO. 23973 *Complete (if applicable)*

Name (Print/Type) Evelyn H. McConathy Registration No. (Attorney/Agent) 35,279 Telephone (215) 988.2700

Signature Evelyn H. McConathy Date March 17, 2005